

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA**

DUBACH, INC., a California corporation,)
and **M.L. DUBACH**, individually,)

Plaintiffs,)

v.)

Case No. CIV 05-050-JHP

LUCKY ACE PETROLEUM, L.L.C.,)
an Oklahoma limited liability company,)
EARL EDMONDS, individually and d/b/a)
Lucky Ace Petroleum, and **OMEGA TRADING,**)
L.L.C., a Minnesota limited liability company,)
d/b/a Lucky Ace Petroleum,)

Defendants.)

ORDER and OPINION

Now before the Court is Defendants' Motion in Limine to limit the testimony of Plaintiffs' expert, Dennis Maley, and Plaintiffs' Response in opposition thereto. For reasons stated herein, Defendants' Motion is DENIED.

Maley is a certified public accountant who will testify on relevant financial matters, based upon his examination of Defendants' financial records, checking accounts, and contracts at issue in this case. Defendants do not argue that Maley is unqualified. Rather, Defendants object to any testimony offered by Maley relating to (1) whether any party made fraudulent misrepresentations or committed fraud; (2) what equitable interests were or should have been conveyed; (3) whether a contract was formed; (4) what the respective rights and responsibilities of the parties to any contract were or should be; and (5) what standards apply to contracting in the oil and gas as being "clearly beyond [Maley's] expertise" and seek to limit the introduction

of such testimony.

In addition to his professional certification, Maley claims expertise in oil and gas taxation and accounting, evaluation of financial matters, including credibility issues related thereto, and other topics derivative of his education, training, and experience in the field of accounting. Thus, to the extent that Maley's testimony on the matters listed above is relevant and falls within the scope of his expertise, the Court sees no reason why Maley's opinions on these topics should be excluded. Defendants are, of course, entitled to cross-examine the witness and to raise any objections of this nature as they arise during trial.

IT IS SO ORDERED this 21st day of June 2006.



James H. Payne
United States District Judge
Eastern District of Oklahoma